

HOUSE BILL 2953
By Garrett

AN ACT to amend Tennessee Code Annotated, Title 4, and Section 9-21-105 (20)(A), relative to public buildings and the display of art.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act may be cited as "The Tennessee Public Artworks Act."

SECTION 2. It is declared as a matter of public policy by the general assembly that the state of Tennessee seeks to increase the quality of state facilities for the education, enjoyment and prosperity of its citizens and visitors and to promote an atmosphere in which business, the arts, and tourism can flourish. Furthermore, the general assembly recognizes the fundamental role that the arts play in economic development, community revitalization, social benefit and welfare, and state pride. It is therefore the purpose of the general assembly to provide that a portion of future expenditures for construction of state facilities, except as hereinafter set out, shall be used for the enrichment of public places through art.

SECTION 3. As used in this act, unless the context otherwise requires:

- (1) "Construction" means the construction, reconstruction, remodeling, or renovation of a state property or facility.
- (2) "Contracting Officer" means the public officer or body responsible for securing the preparation of plans and specifications for the purpose of negotiating or advertising bids for the construction of a state facility.

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- (3) "Designer" means an architect, landscape architect, or engineer licensed in the state of Tennessee.
- (4) "Principal User" means the state agency, which will be the principal occupant of the proposed state facility. However, in cases where more than one agency will occupy a facility, "principal user" means the state of Tennessee.
- (5) "Public Places" means areas within a state facility for the common use of members of the citizenry, tourists or employees, including parking areas, plazas, courtyards, gardens, lobbies, waiting rooms, hallways, lunchrooms, conference, hearing or meeting rooms, medical, dental, library or museum space for use by the general public, or other space for pursuing the functions of a state agency.
- (6) "State Facility" means any permanent structure, grounds and appurtenant structures, excluding parking garages, which is to be constructed, reconstructed, remodeled, or renovated using an appropriation of state funds when the amount appropriated for that purpose exceeds one million dollars (\$1,000,000).
- (7) "Works of art" or "artworks" means original works of independent creative authorship or works designed by a professional artist, team of artists, or design team which includes a professional artist selected through the established selection procedures. The term "works of art" or "artwork" shall not include any reproductions of original art by mechanical means or mass produced items of standard manufacture except as incorporated into an artwork by a project artist. Works for hire, such as illustrations or designs for which authorship is not within the artist's jurisdiction, will not be considered "works of art" or "artworks".

SECTION 4. (a) One percent (1%) of the amount appropriated for the construction of each state facility, not including the amount of funds used for land acquisition, shall be used for the acquisition of works of art for that facility.

(b) The amount to be expended for the acquisition of artworks for the state facility shall be included in the stated limit of the design contract and the amount shall also be incorporated by the designer in the total cost estimate for construction.

(c) If the principal user, the state building commission, and the Tennessee arts commission jointly determine and certify in writing that, due to the use of the building or other reasons, a particular project should not include artworks, the one percent (1%) shall be placed in a nonreverting fund for the purchasing or commissioning of a portable artworks collection for placement in other state facilities or for the commissioning or installing of temporary works of art for public places or for performances in public places.

(d) The selection and commissioning of artists and the acquisition and execution of works of art for state properties undertaken pursuant to this act shall be exempt from the provisions of all state bidding requirements. Expenditures for works of art as provided in this act shall be contracted for separately from all other items in the construction project.

(e) Of the one percent (1 %) of the amount appropriated, or, in cases when an appropriation has been made for planning or design only, the amount approved by the state building commission for the construction cost of a state property that is dedicated to the acquisition of works of art pursuant to subsection (a) of this section, no more than twenty percent (20%) of those funds may be used for the administrative costs of acquiring the artworks, for community participation activities, and for educational materials. Funds for the administrative costs of acquiring the artworks shall be disbursed to the Tennessee arts commission at the time the design contract is signed.

(f) Of the one percent (1 %) of the amount appropriated for the construction cost of a state facility that is dedicated to the acquisition of works of art pursuant to subsection (a) of this section, ten percent (10 %) shall be placed in a nonreverting fund in the Tennessee arts commission for the repair and conservation of works of art.

(g) Of the one percent (1%) of the amount estimated for the construction cost of a state facility that is dedicated to the acquisition of works of art pursuant to subsection (a) of this section, up to ten percent (10%) of the funds reserved for the artist's fee may be used as advanced planning funds to enable the artist, upon selection, to develop working drawings and to incorporate plans for the artwork in the construction documents of the state facility. Funds for advanced planning shall be disbursed at the time the artist's contract is approved.

(h) The Tennessee arts commission may issue any rules necessary for the implementation of this act and shall administer the program created by this act.

SECTION 5. (a) Whenever a new state facility is to be constructed, the contracting officer, together with the designer who has been engaged to prepare the plans for the project, shall consult with the principal user and the arts administrator of the Tennessee arts commission prior to the schematic phase of the property's design, regarding the works of art to be included in the design of the property, and the artist or craftsman to be commissioned for the project.

(b) A selection panel consisting of arts professionals, the designer, and using agency representatives shall be convened by the director of visual arts, media and crafts of the Tennessee arts commission to nominate or recommend artists and/or works of art for the state facility.

(c) The approval of artists and works of art nominated or recommended shall be determined by majority vote of a committee comprised of the designer, the principal

user, the executive director of the Tennessee arts commission, and two citizens appointed by the executive director of the Tennessee arts commission.

SECTION 6. Tennessee Code Annotated, Section 9-21-105 (20)(A) is amended by inserting after the word "garages," and before the words "community houses" in the fourth line of that subsection the words "acquisition of public art and art services,"

SECTION 7. This act shall not be construed or interpreted as precluding the placement or purchase of other works of art using public funds, nor shall it be construed or interpreted as precluding the use of ornamental detailing, or other architectural, functional or structural garnishing in constructing public buildings or facilities. The works of art pursuant to the act are to be in addition to the architectural embellishments.

SECTION 8. Nothing in this act shall obligate the state of Tennessee for any additional appropriation without approval by the joint finance, ways and means committee of the general assembly.

SECTION 9. This act shall take effect July 1, 1998, the public welfare requiring it.